

**JUN 20 2006**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

RICHARD SLEZAK,

Plaintiff - Appellant,

v.

FAIRBANKS CAPITAL CORP.,

Defendant - Appellee.

No. 04-17507

D.C. No. CV-03-00650-MMC

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Maxine M. Chesney, District Judge, Presiding

Submitted June 12, 2006<sup>\*\*</sup>

Before: WALLACE, KLEINFELD, and BERZON, Circuit Judges.

Richard Slezak appeals pro se from the district court's summary judgment in his action under the Real Estate Settlement and Procedures Act, 12 U.S.C. § 2601,

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(“RESPA”). We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Brown v. Ticor Title Ins. Co.*, 982 F.2d 386, 390 (9th Cir. 1992), and we affirm.

Slezak’s complaint alleged that Fairbanks Capital Corporation, (“Fairbanks”) which services a mortgage loan on a house he owns, violated RESPA by failing to respond to his requests for information on his loan. The district court granted summary judgment to Fairbanks on the federal claims, determining that Slezak’s damage claims were barred by the settlement approved by the district court in *Curry v. Fairbanks Capital Corp.*, No. 03-10895 DPW (D. Mass. 2003) (“Curry action”), and the district court dismissed the state law claims.

The district court properly granted summary judgment to Fairbanks because Slezak was a member of the *Curry* class, and the *Curry* class action presented the same RESPA claims as those Slezak asserted in the district court. *See Brown*, 982 F.2d at 390. Moreover, Slezak presented no evidence to show that he was not adequately represented in the *Curry* action, or that he was deprived of due process in the *Curry* action. *See id.*

Slezak’s contentions that the notice of the *Curry* class settlement was inadequate are unsupported by the record.

The district court did not abuse its discretion in declining to exercise supplemental jurisdiction over Slezak's state law claims for injunctive relief without prejudice to Slezak filing those claims in state court. *See* 28 U.S.C. § 1367(c)(3).

Slezak's remaining contentions are unpersuasive.

**AFFIRMED.**